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May 3, 2004

VIA COURIER

Frances M. Hart
Executive Secretariat
U.S. Equal Employment Opportunity Commission
10th Floor
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Re: **Comments of the Equal Employment Advisory Council on the Adoption of Additional Questions and Answers To Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures as They Relate to the Internet and Related Technologies (OMB Number 3046-0017)**

Dear Ms. Hart:

The Equal Employment Advisory Council ("EEAC") welcomes the opportunity to file these written comments on the information collection requirements associated with the *Adoption of Additional Questions and Answers To Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures as They Relate to the Internet and Related Technologies* (hereinafter the "Additional Questions and Answers"), notice of which was published in the *Federal Register* on March 4, 2004. 69 Fed. Reg. 10152.

The Additional Questions and Answers to the Uniform Guidelines on Employee Selection Procedures ("UGESP") — jointly issued by the Equal Employment Opportunity Commission ("EEOC"), the Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP"), the Department of Justice ("DOJ"), and the Office of Personnel Management ("OPM") (hereinafter the "UGESP Agencies") — are being proposed to help answer several fundamental and difficult questions about how federal equal employment opportunity and affirmative action ("EEO/AA") recordkeeping and compliance requirements apply when the Internet and related technologies (hereinafter "online resources") are used as job hunting tools by job seekers, and as recruitment and selection tools by employers. These questions have challenged both employers and federal enforcement agencies for the past decade in their efforts to monitor and enforce compliance with federal nondiscrimination requirements, and we commend the UGESP Agencies for taking this important, long-awaited step forward to help answer them.

We also commend the UGESP Agencies for articulating, clarifying, or in some cases simply reiterating the following important principles underlying both the Additional Questions and Answers and the UGESP generally:

- that “the precise definition of the term ‘applicant’ depends upon the employer’s recruitment and selection procedures”;
- that “the core of being an ‘applicant’ is asking to be hired to do a particular job for a specific employer”;
- that a job seeker who has not followed the employer’s standard procedures for submitting applications cannot be considered a “UGESP applicant”;
- that there is a fundamental difference between recruitment and selection, and that “the UGESP requirements geared to monitoring *selection* procedures do not apply” to recruitment procedures; and
- that in certain circumstances workforce and Census data may be used to assess the impact of an employer’s recruitment and selection processes when online resources are used, particularly in those situations where a job seeker’s race, ethnicity, and gender are unknown because he or she has not met the three newly established criteria for a “UGESP applicant.”

To be sure, the articulation of these principles and the issuance of the Additional Questions and Answers represent a helpful step forward in establishing a flexible but stable enough legal framework around which employers can now reliably develop or, more likely, reassess their online recruitment strategies to ensure that federal EEO/AA compliance requirements are being met. And while some within the employer community — indeed, some of our own members — had been hopeful that the UGESP Agencies would have gone even further by providing more definitive guidance than that offered by the Additional Questions and Answers, we understand that such guidance likely would have had to come in the form of inflexible mandates and detailed proscriptions, an approach which, on balance, we believe the UGESP Agencies were wise to avoid.

In drafting these comments, we also have been mindful of the fact that the Additional Questions and Answers recently proposed by the UGESP Agencies are not the only step recently taken to clarify how federal EEO/AA recordkeeping and compliance requirements apply in the context of online recruitment and selection practices. On March 29, 2004, just three weeks after the Additional Questions and Answers were proposed, OFCCP published in the *Federal Register* a Notice of Proposed Rulemaking amending its own recordkeeping requirements to conform them to the UGESP Agencies’ Additional Questions and Answers. In many respects, OFCCP’s “conforming regulations” provide the additional detail and clarity

needed to strengthen the legal and practical framework for employers' online recruitment strategies by explicitly requiring, for example, that a job seeker's expression of interest indicate that he or she possesses the advertised basic qualifications of the position before he or she can be considered an "Internet applicant." While our comments today largely focus on the information collection requirements of the Additional Questions and Answers, we also have included where appropriate discussion of OFCCP's proposed conforming regulations and how they likely would affect employer recordkeeping and compliance requirements in the context of Internet-based recruitment and selection practices.

Finally, before we address each of the five specific additional questions and answers, we think it is important to emphasize — as did the UGESP Agencies themselves — the broader legal and practical context in which they have been proposed. The UGESP and their accompanying questions and answers are intended to guide employers in their efforts "to comply with requirements of Federal law prohibiting employment practices which *discriminate* on grounds of race, color, religion, sex, and national origin." (Emphasis added) 29 C.F.R. § 1607.1 B. The Additional Questions and Answers must, therefore, be read and interpreted with this primary goal in mind. The objective is not simply to establish guidelines for what easily could amount to a burdensome exercise in senseless recordkeeping. Rather, the objective is to develop a practical mechanism through which employers can monitor their Internet-based recruitment and selection practices to ensure that they are nondiscriminatory.

Statement of Interest

EEAC is the nation's largest nonprofit association of employers dedicated exclusively to the advancement of practical and effective programs to eliminate workplace discrimination. Founded more than 25 years ago, EEAC's membership now includes more than 330 of the nation's largest and most progressive private sector companies that, collectively, employ more than 19 million workers in the U.S. alone.

All of EEAC's member companies are employers subject to the compliance, recordkeeping, and reporting requirements established by Title VII of the Civil Rights Act of 1964 and its implementing regulations. As users of tests and selection procedures serving as the basis for employment decisions, they also are subject to the UGESP recordkeeping and analysis requirements. In addition, nearly all of our member companies also are federal contractors subject to the affirmative action program requirements established by Executive Order 11246, the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and their implementing regulations.

Each year, EEAC members receive *millions* of résumés and other expressions of interest in employment through the Internet and related technologies. They thus have a significant stake

and interest in ensuring that the information collection requirements imposed by the Additional Questions and Answers are reasonable, efficient, and effective in accomplishing the overarching objective of ensuring that their Internet recruitment and selection processes are nondiscriminatory.

We now turn to our comments on the UGESP Agencies' five proposed additional questions and answers.

Question and Answer No. 94: Application of Title VII to Online Recruitment and Selection Practices

Proposed Question and Answer No. 94 would confirm that Title VII and Executive Order 11246 apply to both the recruitment *and* selection practices of covered employers who administer those practices using the Internet and related technologies. EEAC agrees with this proposed question and answer and believes that it will not fundamentally alter the information collection requirements currently imposed by the UGESP.

Question and Answer No. 95: Exempting Internet Recruitment From UGESP Requirements

Reiterating and clarifying the important distinction between recruitment practices on the one hand, and selection practices on the other, proposed Question and Answer No. 95 would apply the UGESP exemption for non-Internet recruitment practices to a covered employer's Internet-based recruitment practices. This proposed question and answer would make clear that "the UGESP requirements geared to monitoring selection procedures" do not apply to recruitment practices, whether administered via the Internet or otherwise.

Proposed Question and Answer No. 95 also would note appropriately that recruitment involves "identifying and attracting potential recruits to apply for jobs," and, by implication, that selections do not begin until after an individual has applied for a specific position and the employer begins to "consider" that individual for that particular position. Accordingly, as we read proposed Question and Answer No. 95, all initial and subsequent job seeker database searches that precede an employer's consideration of an individual for a particular position are recruitment practices not subject to UGESP recordkeeping and compliance requirements applicable to selection practices. This would be true whether these searches are conducted of databases administered by the covered employer or by a third party.

Notwithstanding this welcome clarification, however, EEAC urges the UGESP Agencies to recognize formally in Question and Answer No. 95 that the precise point at which recruitment decisions end, and selection decisions begin, cannot be defined with precision in the abstract, but instead "depends upon the user's recruitment and selection procedures" as is clarified elsewhere in the UGESP. We also urge the UGESP Agencies to state explicitly what is implied elsewhere in the Additional Questions and Answers, their accompanying Supplementary Information text,

and the OFCCP's proposed conforming regulations: that, in the context of the Internet and related technologies, selection decisions cannot begin until the individual job seeker has applied for a specific position for which he or she possesses the desired credentials, and the employer has considered the individual for that position.

Assuming that the above interpretation is correct regarding how this proposed question and answer would apply to database searches, EEAC believes that it will not impose substantial additional information collection burdens on covered employers. On the other hand, if the UGESP Agencies were to take the position that database searches preceding an employer's consideration of an individual for a particular position did in fact qualify as selection practices, the information collection burden on covered employers would far surpass what the UGESP Agencies have budgeted in their March 4 *Federal Register* notice announcing the adoption of the Additional Questions and Answers. The UGESP Agencies would in turn be required under the federal Paperwork Reduction Act to account for this significantly greater burden when the Additional Questions and Answers are published in their final form.

Question and Answer No. 96: Defining an "Applicant" for Recordkeeping Purposes in the Context of Online Recruitment and Selection Practices

Proposed Question and Answer No. 96 — the crux of the Additional Questions and Answers — would establish three specific criteria that must be established before a job seeker qualifies as a "UGESP applicant" in the context of the Internet and related technologies. Before discussing these specific criteria, however, it is important to recognize a few of the significant overarching principles established in the existing and proposed UGESP questions and answers.

First is the acknowledgment that in the context of both non-Internet and Internet-based recruitment and selection environments, the precise definition of the term "applicant" is dependent upon "the user's recruitment and selection procedures." UGESP Question and Answer No. 15 and Proposed Question and Answer No. 96. Rather than proposing detailed, prescriptive requirements, the Additional Questions and Answers instead offer general guidance with recognition that implementation of that guidance will, of necessity, vary from one employer to another.

A second significant overarching principle is that "the core of being an 'applicant' is asking to be hired to do a particular job for a specific employer." Proposed Question and Answer No. 96. Here again, an "applicant" does not exist as an abstract entity, but only in the context of being considered by an employer for a specific position actually sought by that individual. In the absence of such a meeting of the minds (*i.e.*, the job seeker wants the very position for which the employer is considering him or her), there is no "applicant" for UGESP recordkeeping and compliance purposes.

Finally, the introductory section of the March 4 *Federal Register* notice announcing the Additional Questions and Answers contains a very useful summary of the wide variety of corporate recruitment and selection practices in existence today that utilize the Internet or related electronic technologies. The proposed Additional Questions and Answers, however, assume that employers' electronic recruitment practices essentially fall into one of two camps that, for purposes of discussion, might be described as (1) "position specific" recruiting, and (2) "broadcast" recruiting. "Position specific" recruiting is illustrated by Example B in proposed Question and Answer No. 96, in which Game Park posts an announcement on its Web page that is so specific with respect to experience requirements that it is suitable only for the position of park ranger. Given its specificity, it reasonably can be assumed that anyone responding to the posting is interested in being considered for a park ranger opening.

In contrast, "broadcast" recruiting occurs when an employer invites individuals to register electronically their interest in being considered for more broadly defined categories or kinds of positions, and then subsequently searches the resulting database for individuals whose credentials match the requirements for specific openings. Examples A and C illustrate broadcast recruiting policies. In Example A, individuals interested in being considered for customer service representative positions were invited to complete an online personal profile. When two vacancies opened up in the New York City area, the database was searched for individuals who had indicated on their profiles that they were available to work in New York. In Example C, the employer's Web page encouraged individuals who visited the site to complete a personal profile and register it electronically to be considered for future printer openings. Subsequently, when openings occurred that required two years of printer experience, the database was searched to identify those individuals in the database that had the required level of experience.

"Position specific" and "broadcast" recruitment practices are not mutually exclusive. Employers can and often do use both approaches simultaneously in their recruitment efforts. Position specific recruitment might be used for positions that are low turnover and are filled infrequently, or for positions that are in some way unique or require specific skills. Broadcast recruitment efforts, on the other hand, might be more suitable for high turnover positions or for positions for which there is a constant need (e.g., engineers). In evaluating the proposed Additional Questions and Answers — and particularly in evaluating the OFCCP's proposed conforming regulations — it is well to keep in mind that both approaches to recruiting are appropriate and in frequent use by employers subject to UGESP requirements.

With these overarching concepts in mind, we now turn to an evaluation of the three proposed criteria for "UGESP applicants" set forth in Question and Answer No. 96. In so doing, we draw where appropriate upon the additional guidance afforded by OFCCP's proposed conforming regulations. We also address here the issue of "skills" or "qualifications."

(1) The Employer Has Acted To Fill a Particular Position

Both Question and Answer No. 96 and the OFCCP's conforming regulation recognize that an essential ingredient of defining "applicants" is that the employer is actively seeking to fill an available position. Question and Answer No. 96 would require that the employer has "acted to fill" a particular position, while OFCCP's conforming regulation would require that the employer "considers the job seeker for employment in a particular open position." 69 Fed. Reg. 16447. EEAC believes that the OFCCP's "considers" language is preferable to the UGESP Agencies' "acted to fill" language because it refers more clearly and precisely to a selection activity as opposed to a recruitment activity, and we therefore urge the UGESP Agencies to incorporate this language in the final text of Question and Answer No. 96.

It could be said, for example, that by merely posting the availability of a position (clearly a recruitment activity), the employer has "acted to fill" that position. As Example A illustrates, however, it was not the act of soliciting personal profiles for customer service positions that defined the applicant pool, but rather the employer's consideration for interview of the 100 individuals who timely indicated an interest in New York City openings. The phrase "considers... for employment" in lieu of "acted to fill" also is more consistent with what we believe to be the most appropriate dividing line between recruitment activities and selection decisions.

(2) The Individual Has Followed the Employer's Standard Procedures for Submitting Applications

Question and Answer No. 96 properly recognizes that having followed the employer's standard procedures for submitting applications is a necessary criterion for defining the term "applicant" for purposes of UGESP statistical analyses, especially in light of the fact that millions of job seekers now use the Internet and related technologies to "scout the possibilities more freely and casually" than ever before, as the UGESP Agencies themselves have acknowledged. Indeed, this criterion is necessary not only to help employers "manage the data that are received," but also to improve the reliability of the statistical analyses upon which those data are based — statistical analyses which are designed to assess the impact of race, ethnicity, or gender in the making of selection decisions, not the impact of one's failure to follow the employer's standard application procedures. We also note here that while the OFCCP's conforming regulations make only an oblique reference to this definitional element by requiring that "Internet applicants" submit their interest in employment through the "Internet or related electronic technologies," we believe the two proposals to be consistent with one another in this important respect.

As we understand this definitional element of a "UGESP applicant," employers would be able to establish in their Internet-based recruitment and selection practices *procedures* to help them manage the vast amounts of job seeker data coming into their databases, and indeed limit

the number of those job seekers who would qualify as UGESP applicants. For example, as we read this criterion, employers would be able to implement procedural steps that require job seekers to indicate that they possess the credentials necessary for the job; if these job seekers do not follow these procedures, they cannot complete the process of submitting an application in accordance with the employer's standard procedures for doing so. Accordingly, they would not be considered "UGESP applicants" under proposed Question and Answer No. 96.

This interpretation is particularly important for the majority of employers who use online resources to engage in "position specific" recruitment. For instance, a company that posts on its website an opening for a Chief Financial Officer position requiring CPA certification would, under our interpretation of this definitional element, be permitted under the Additional Questions and Answers to establish application procedures for this position that require online job seekers to demonstrate that they indeed possess the necessary credentials for the job. By way of illustration, the company in this case could require online job seekers to identify when they received their CPA certification. If the online job seeker could not (or chose not to) complete this specific procedural requirement, he or she would not be permitted to complete the submission of their expression of interest (i.e., résumé or application) for the Chief Financial Officer position. They would not, therefore, meet the necessary criteria for being a "UGESP applicant" under Question and Answer No. 96. We believe that this interpretation is consistent both with OFCCP's conforming regulation — which explicitly adopts a qualifications component in its definition of an "Internet applicant" — and with the UGESP Agencies' Question and Answer No. 97, which allows employers to use job-related criteria in their online recruitment efforts.

This interpretation makes sense for several important reasons, not the least of which is that it would allow employers to exclude from their analyses the impact that their selection practices had on those who did not demonstrate their fundamental eligibility for the position in question, thereby presenting a more accurate assessment of whether their selection practices discriminated against those qualified individuals who are protected from such discrimination under Title VII and Executive Order 11246. A contrary interpretation, continuing the illustration above, would require the company to count among its "UGESP applicants" those who do not possess CPA certification — indeed, those who have *no work experience at all* — but who nevertheless submit their "application" for the Chief Financial Officer position by following the company's online procedures for doing so. We do not believe the Additional Questions and Answers to require such an absurd outcome.

If our interpretation of this definitional element is accurate, then employers *should*, given enough time, be able to adapt their online recruitment and selection practices in such a way as to reasonably limit the information collection burdens associated with the Additional Questions and

Answers. If our interpretation is not accurate, and the UGESP Agencies instead do not intend for this criterion to be used in this fashion by employers, then the information collection burdens associated with the Additional Questions and Answers will be immeasurably greater than what the UGESP Agencies have budgeted.

(3) The Individual Has Indicated an Interest in the Particular Position

As indicated above, EEAC is completely in accord with the conclusion that “[t]he core of being an ‘applicant’ is asking to be hired to do a particular job for a specific employer.” This principle is the counterpart to requiring that the employer be actively considering individuals to fill a position; both are indispensable to defining a UGESP applicant. EEAC also is completely in accord with the several “real world” examples offered in this section of Question and Answer No. 96 illustrating what does and does not constitute an “indication of an interest in the particular position” which the employer is acting to fill.

That said, we emphasize here our understanding that this definitional element — like the one immediately preceding it — permits employers to establish in their Internet-based recruitment and selection practices procedures through which the job seeker must indicate his or her interest in the particular position which the employer is acting to fill. For example, as we read this criterion, employers would be able to implement procedural steps that require job seekers to indicate that they are interested in the particular position given the essential conditions under which it is to be performed, such as the geographic location where the job is located and the days and hours when it is to be performed. After being presented with these conditions, job seekers who do not indicate an interest in the particular position would not be considered “UGESP applicants” under proposed Question and Answer No. 96.

We note here that OFCCP’s proposed conforming regulation also requires that applicants be interested in a particular position, but in a way that phrases the requirement in the negative rather than in the positive: “[t]he job seeker does not indicate that he or she is no longer interested in employment in the position for which the employer has considered the individual.” Notwithstanding this curious difference in articulating what appears in principle to be the same criterion, for present purposes we believe the different phraseology used in the two proposals is complementary rather than contradictory.

It is true (as Question and Answer No. 96 suggests) that in order for an individual properly to be included in any demographic analysis of selections he or she must actually be interested in the positions offered. But it is also true (as suggested in the OFCCP conforming regulation) that such individuals must remain interested in those positions throughout the time that their application is under consideration. If at any time an interested applicant withdraws from the selection process, he or she should be excluded from any subsequent UGESP statistical monitoring.

Question and Answer No. 97: Search Criteria Subject to Disparate Impact Analysis

Proposed Question and Answer No. 97 would clarify that search criteria used by employers in the course of developing their applicant pools are "subject to" disparate impact analysis, and that such analysis "can be based on Census or workforce data." Similarly, the OFCCP conforming regulation states that the agency will rely on "labor force statistics or other relevant data" for enforcing Executive Order 11246 with respect to "recruitment processes that occur prior to the collection of gender, race and ethnicity data." OFCCP goes on to state that where there is a "significant difference" between the proportion of women and minorities in the contractor's relevant applicant pool and the "labor force statistics and other data," then OFCCP will "investigate further" as to whether the contractor's recruitment and hiring practices conform with the standards established by Executive Order 11246.

Before analyzing these proposals in detail, a few preliminary observations should be made. First, both proposals refer to disparate impact involving *recruitment* rather than *selection* practices. And while Question and Answer Nos. 94 and 95, taken together, state that an employer's electronic recruitment practices are in fact subject to the general nondiscrimination requirements of federal law and may, presumably, be analyzed under a disparate impact theory of discrimination, they are not subject to the UGESP's ongoing monitoring and record-retention requirements which are uniquely applicable to an employer's selection practices.

Second, we understand the disparate impact analyses contemplated in these sections to be analyses that *the enforcement agencies may elect to undertake in carrying out their enforcement responsibilities*, but they are not analyses required to be done by employers on an annual, ongoing basis. Specifically, we do not understand either proposal to be suggesting that employers will be expected to produce disparate impact analyses of their recruitment practices in an EEOC complaint investigation or OFCCP compliance evaluation. If the UGESP Agencies were to require employers to undertake these analyses on an annual, ongoing basis, the burdens associated with doing so would be substantially greater than what thus far has been accounted for under the Paperwork Reduction Act.

Finally, we understand that the results of the statistical analyses will not be used as a basis for a finding of discrimination, but rather will be used primarily to, in OFCCP's words, "investigate further as to whether the contractor's recruitment and hiring practices conform with E.O. 11246 standards." In other words, the results are intended to be used as a guide for exercising agency prosecutorial discretion rather than as a basis for finding actual discrimination.

Assuming these understandings to be accurate, EEAC acknowledges that in certain circumstances, Census or other appropriate workforce data have been used in lieu of actual applicant flow data for purposes of conducting statistical analyses of employment patterns. Indeed, OFCCP's preamble discussion cites to certain court cases in which this has been done.

We point out, however, that using Census or other general workforce data as a basis for evaluating the recruiting and selection practices of specific employers may not be reliable in all circumstances, especially when evaluating such practices relative to unique or highly skilled positions. For example:

- While there are literally tens of thousands (if not hundreds of thousands) of individual jobs in America's workforce, there are only 471 Census occupational classification codes (OCCs) available to use as Census data benchmarks in comparing demographic data against candidate or applicant pools for individual jobs. At the very start, choosing the right OCC to match against any job entails compromise regarding content of the job, experience required for the job, the working conditions associated with the job, and any number of other relevant factors.
- Even where a single OCC appears to match appropriately to a given job, the OCC often will be insufficiently specific. For example, the Census occupation category for "Lawyers" (OCC 210) includes all those who identified themselves as "lawyers" in the detailed 2000 Census questionnaire, irrespective of their area of practice, level of experience, or special skills. Someone using data from this OCC to evaluate an employer's selection practices for patent attorneys, for example, probably would be presented with a statistical benchmark for lawyers in general that is quite different from the true demographic benchmark for patent lawyers.
- Census data take no account of level or experience. The Census occupation category for "Chief Executive Officers" (OCC 001), for example, includes anyone with an officer title in any business, regardless of firm size. In reality, however, the potential pool for chief executives or officers of large corporations is very different from the pool of chief executives for small businesses.
- The OCC may be misleading, even if the jobs involved have fairly consistent skills. For example, the Census occupation category for "Driver/Sales Workers and Truck Drivers" (OCC 913) includes everything from local route sales drivers who often drive vehicles as small as vans to over-the-road "big rig" drivers. It is almost certain that the benchmark data on the race, ethnicity, and gender demographics for each of the specific occupations within this category are radically different from the others.
- An individual job as mapped by the Census Bureau may not be accurately mapped as that job reflects the employer's practices. For instance, a "Division Manager" in a sophisticated computer technology company will most likely have been mapped by the Census Bureau to the occupational category of "General and Operations Managers" (OCC 002). If, however, the company requires that all such managers be professional

computer scientists, using OCC 002 would be inappropriate, especially since the code “Computer Scientists and Systems Analysts” (OCC 100) appears to supply the better match.

- The demographic data that form the benchmark may be too limited. Only one in six households received the detailed Census “long form” that requested occupation data. One of the results is that the majority of combinations of OCCs and geographic areas reported in the most widely-used Census datasets have fewer than 100 “incumbents” — a very small number upon which to establish a legal benchmark.

These same difficulties will exist when the UGESP Agencies attempt to evaluate the impact of search screens or other recruitment practices by comparing the demographics of the resulting applicant pools to the demographics of specific Census or other workforce data.

Question and Answer No. 98: Application of UGESP Requirements to Employment Tests, Including Those Administered Online

Proposed Question and Answer No. 98 would clarify that employment tests, including those of “specific or general skills,” are selection procedures as opposed to recruitment procedures, and that they therefore are subject to UGESP recordkeeping and compliance requirements. EEAC agrees with this clarification, and we do not believe that adoption of this question and answer would impose significant new information collection burdens on covered employers.

Applying the Principles Articulated in the Additional Questions and Answers to Non-Internet Recruitment and Selection Practices

Finally, while EEAC recognizes that the UGESP Agencies developed the Additional Questions and Answers at the direction of the Office of Management and Budget specifically to address “how *use of the Internet* by employers to fill jobs affects employer recordkeeping obligations” (emphasis added), in preparing these comments many of our members indicated that their recruitment and selection strategies have both Internet-based and non-Internet-based components, and that they believe the principles articulated in the Additional Questions and Answers can and should be applied both within the context of the Internet and related technologies and outside of it. Simply put, the UGESP’s fundamental legal requirements pertaining to job applicants ought to indeed be *uniform*, and we urge the UGESP Agencies to apply a single set of principles to these important, applicant-related recordkeeping and compliance requirements.

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Conclusion

As we made clear at the outset of these comments, EEAC believes that the Additional Questions and Answers represent an important step forward in establishing a flexible legal and practical framework around which employers can now reliably develop or reassess their online recruitment strategies to ensure that federal EEO/AA compliance requirements are being met. Assuming that the interpretations and understandings set forth above are accurate, we believe that this framework will not impose substantial additional information collection burdens on UGESP-covered employers. Accordingly, we recommend that the UGESP Agencies establish an effective date for the Additional Questions and Answers no earlier than six months from final publication in the *Federal Register* to give employers adequate time to bring their recruitment and selection systems and processes into compliance.

Thank you for the opportunity to present our views on this important matter. Please do not hesitate to contact me or any member of the EEAC staff if we can be of further assistance.

Sincerely,



Jeffrey A. Norris
President

cc: Honorable Cari M. Dominguez
Chair, U.S. Equal Employment Opportunity Commission

Honorable Victoria A. Lipnic
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